

# FLORIDA BENCHCARD: SPECIAL CONSIDERATIONS WHEN CONDUCTING JUDICIAL REVIEW HEARINGS FOR YOUTH TRANSITIONING TO ADULTHOOD AND FOR YOUNG ADULTS IN FOSTER CARE

Items in **bold font** are required by Florida Statutes.

Use the regular Judicial Review hearing benchcard and include the additional considerations below when conducting a Judicial Review hearing involving a youth transitioning to adulthood.

## Specific considerations regarding transitioning youth.

- Hold judicial review hearing within **90 days** after a youth's 17th birthday and timely judicial reviews thereafter. § 39.701(3)(a).
- Review the status of the youth more frequently during the year prior to the youth's 18th birthday, if necessary. § 39.701(3)(a).
- In addition to any information or report provided to the court by the foster parent, legal custodian, guardian ad litem, the child shall be given the opportunity to address the court with any information relevant to the youth's best interest, particularly in relation to independent living transition services. § 39.701(3)(a).
- For youth in DCF custody, within the month at the beginning of the 6 month period before the youth's 18th birthday (i.e.-when the youth is 17 ½ years old), hold a hearing to review the youth's progress while in DCF's custody. § 39.013(8).
- Each of the youth's subsequent judicial review social study reports should likewise contain the detailed information set forth below.

## Transition plan.

- During the 180 day period after a child reaches 17 years of age, the department and CBC provider, in collaboration with the caregiver and any other individual whom the child would like to include, shall assist the child in developing a transition plan. § 39.6035(1).
- The requires transition plan is in addition to standard case management requirements and must address specific options for the child to use in obtaining services, including housing, health insurance, education, financial literacy, a driver license, and workforce support and employment services. § 39.6035(1).
- The transition plan must also consider establishing and maintaining naturally occurring mentoring relationships and other personal support services. The transition plan may be as detailed as the child chooses. § 39.6035(1).

## Requirements of the transition plan.

- In developing the transition plan, the department and CBC provider shall:

- Provide the child with the documentation required pursuant to § 39.701(3). § 39.6035(1)(a).
- Coordinate the transition plan with the independent living provisions in the case plan and, for a child with disabilities, the Individuals with Disabilities Education Act transition plan. § 39.6035(1)(b).
- Provide information for the financial literacy curriculum for youth offered by the Department of Financial Services. § 39.6035(1)(c).
- The department and the child shall schedule a time, date, and place for a meeting to assist the child in drafting the transition plan, which must be convenient for the child and any individual whom the child would like to include. This meeting shall be conducted in the child's primary language. § 39.6035(2).
- The transition plan shall be reviewed periodically with the child, the department, and other individuals of the child's choice and updated when necessary before each judicial review so long as the child or young adult remains in care. § 39.6035(3).
- The transition plan must be approved by the court before the child's 18th birthday and must be attached to the case plan and updated before each judicial review. § 39.6035(4). Rule 8.401(c)(5). Rule 8.415(b)(3).

Additional requirement for child with a chapter 744 guardian or a guardian advocate.

- During the time that a young adult is in care, the court shall maintain jurisdiction to ensure that the department and the lead agencies are providing services and coordinate with, and maintain oversight of, other agencies involved in implementing the young adult's case plan, individual education plan, and transition plan. The court shall review the status of the young adult at least every 6 months and hold a permanency review hearing at least annually. If the young adult is appointed a guardian under chapter 744 or a guardian advocate under § 393.12, at the permanency review hearing the court shall review the necessity of continuing the guardianship and whether restoration of guardianship proceedings are needed when the young adult reaches 22 years of age. The court may appoint a GAL or continue the appointment of a GAL with the young adult's consent. The young adult or any other party to the dependency case may request an additional hearing or review. § 39.6251(8).

Additional materials required for the judicial review hearing.

- Verify that in addition to any information or report provided to the court, DCF has included in its judicial review social study report goals and objectives for participation in extracurricular, enrichment, and social activities, as well as specific information on the child's progress toward meeting those objectives. § 4, Chapter 2013-21, Laws of Florida.

Detailed requirements of §§ 39.701(3)(a)1-15, Florida Statutes.

- Verify that DCF has included in its judicial review social study report written verification that the youth has:
- A current Medicaid card and has been provided all necessary information concerning the Medicaid program sufficient to prepare the youth to apply for coverage upon reaching age 18, if such application would be appropriate.
  - A certified copy of his or her birth certificate and, if the child does not have a valid driver's license, a Florida identification card issued under § 322.051.
  - A social security card and information relating to social security insurance benefits if the child is eligible for such benefits. If the child has received these benefits and they are being held in trust for the child, a full accounting of those funds shall be provided and the child must be informed about how to access those funds.
  - All relevant information related to the Road-to-Independence Program, including, but not limited to, eligibility requirements, information on participation, and assistance in gaining admission to the program. If the child is eligible for the Road-to-Independence Program, he or she must be advised that he or she may continue to reside with the licensed foster family or group care provider with whom the child was residing at the time of the child attained his or her 18th birthday, in another licensed family home, or with a group care provider arranged by DCF.
  - An open bank account, or has identification necessary to open such an account, and has been provided with essential banking skills.
  - Information on public assistance and how to apply.
  - A clear understanding of where he or she will be living on his or her 18th birthday, how living expenses will be paid, and what educational program or school he or she will be enrolled in.
  - Information related to the ability to remain in care until he or she reaches 21 years of age under § 39.013.
  - A letter providing the dates that the child is under the jurisdiction of the court.
  - A letter stating that the child is in compliance with financial aid documentation requirements.
  - The child's educational records.
  - The child's entire health and mental health records.
  - The process for accessing his or her case file.
  - A statement encouraging the child to attend all judicial review hearings occurring after the child's 17th birthday.
  - Information on how to obtain a driver license or learner's driver license. §§ 39.701(3)(a)1-15.

Additional detailed requirements of §§ 39.701(3)(d)1-4, Florida Statutes.

- At the last review hearing before the child reaches 18 years of age, and in addition to the requirements of § 39.701(2), the court shall:

- Address whether the child plans to remain in foster care, and, if so, ensure that the child's transition plan includes a plan for meeting one or more of the criteria specified in § 39.6251.
- Ensure that the transition plan includes a supervised living arrangement under § 39.6251.
- Ensure that the child has been informed of:
  - The right to continued support and services from the department and the CBC lead agency.
  - The right to request termination of dependency jurisdiction and be discharged from foster care.
  - The opportunity to reenter foster pursuant to § 39.6251.
- Ensure that the young adult, if he or she requests termination of dependency jurisdiction and discharge from foster care, has been informed of:
  - Services or benefits for which the young adult may be eligible based on his or her former placement in foster care;
  - Services or benefits that may be lost through termination of dependency jurisdiction; and
  - Other federal, state, local, or community-based services or supports available to him or her.

§§ 39.701(3)(d)1-4.

Review hearings for young adults in foster care under § 39.701(4).

- During each period of time that a young adult remains in foster care, the court shall review the status of the young adult at least every 6 months and must hold a permanency review hearing at least annually
  - The department and CBC lead agency shall prepare and submit to the court a report, developed in collaboration with the young adult, which addresses the young adult's progress in meeting the goals in the case plan. The report must include progress information related to the young adult's independent living plan and transition plan, if applicable, and shall propose modifications as necessary to further the young adult's goals.
  - The court shall attempt to determine whether the department and any service provider under contract with the department are providing the appropriate services as provided in the case plan.
  - If the court believes that the young adult is entitled under department policy or under a contract with a service provider to additional services to achieve the goals enumerated in the case plan, it may order the department to take action to ensure that the young adult receive the identified services.
  - The young adult or any other party to the dependency case may request an additional hearing or judicial review.
  - Notwithstanding other provisions, if a young adult has chosen to remain in extended foster care after he or she has reached 18 years of age, the department

may not close a case and the court may not terminate jurisdiction until the court finds, following a hearing, that the following criteria have been met:

- Attendance of the young adult at the hearing; OR
- Findings by the court that:
  - The young adult has been informed by the department of his or her right to attend the hearing and has provided written consent to waive this right; and
  - The young adult has been informed of the potential negative effects of early termination of care, the option to reenter care before reaching 21 years of age, the procedure for, and limitations on, reentering care, and the availability of alternative services, and has signed a document attesting that he or she has been so informed and understands these provisions; or
  - The young adult has voluntarily left the program, has not signed the aforementioned document, and is unwilling to participate in any further court proceeding.
- In all permanency hearings or hearings regarding the transition of the young adult from care to independent living, the court shall consult with the young adult regarding the proposed permanency plan, case plan, and individual education plan for the young adult and ensure that he or she has understood the conversation.

**§§ 39.701(4)(a)-(e).**

Questions for, and relating to, youth transitioning to adulthood. (See *Children in Court*, Section 4)

- Verify that the youth is present at the judicial hearing and, if not, ascertain why not.
- Ask the youth if he or she has received a copy of the judicial review social study report and if so, ask if the judicial review contains the information required by § 39.701(3)(a).
- Ask if the youth has had the opportunity to review the report and whether the information contained therein is correct to the youth's knowledge.
- Ask if the youth has any response or corrections to the information contained in the report.
- Review the requirements of § 39.701(3)(a)1-15, Florida Statutes, and for each item in noncompliance, determine why the youth was not provided with the information, who will fulfill the statutory obligation, and a date by which the required tasks are to be completed.
- Explain to the youth the option to extend jurisdiction of the court and ask youth if he or she would like to petition the court to retain jurisdiction under § 39.013(2), Florida Statutes, for the purpose of determining whether appropriate aftercare support, Road-to-Independence Program, transitional support, mental health, and

**developmental disability services have been provided.**

- Ask the youth what else he or she feels is necessary to live independently.
  - Does the youth have information regarding how to apply for public assistance including but not limited to Medicaid, food stamps, temporary assistance for needy families (TANF), and emergency financial and housing assistance?
  - What is the youth's mode of transportation?
  - Does the youth have adequate furniture, kitchen utensils, and other household supplies?
  - Does the youth's residence have working utilities and running water?
  - What are the youth's educational and/or career plans?
  - Has the youth been informed of how to receive medical care upon discharge from the foster care system?
  - Has the youth been informed of the requirements needed to remain eligible for the Road-to-Independence Program or transitional support services?
  - Has the youth been offered the opportunity to register to vote?
  - If there has been a legal name change for the youth at any time, do all personal and legal documents now contain the same name?
  - Does the youth have an identified support person to contact with questions once jurisdiction has been terminated or lost?
  - Has DCF reviewed the apartment lease to ensure that the rent is not too high for the youth to afford?
  - If the youth is receiving SSI for a disability, has the youth applied for continuation of SSI prior to the youth's 18<sup>th</sup> birthday?
  - If the youth is receiving SSA benefits on a parent's account, has the youth applied for continuation of benefits if attending school full-time, or if the youth is also disabled? If the youth is in need of a guardian under Chapter 744, has a petition been filed yet in probate court?
- Ask DCF if all necessary staffings/meetings were held prior to the judicial review hearing and who attended each of them.
- Ask the youth if he or she attended the staffings/meetings and the caseworker to elaborate regarding the youth's level of participation in the staffing/meetings.
- **Determine for a child who has reached 13 years of age but is not yet 18 years of age, the adequacy of the child's preparation for adulthood and independent living. § 39.701(2)(c)12.**
- **Determine for a child who is 15 years of age or older if appropriate steps are being taken for the child to obtain a driver license or learner's driver license. §**

### 39.701(2)(c)12.

#### Updated case plan.

- Verify, in addition to requirements of § 39.701(2), Florida Statutes, that DCF filed an updated case plan that includes specific information related to independent living services that have been provided since the youth's 13th birthday, or since the date the youth came into foster care, whichever came later. § 39.701(3)(b).

#### Contempt for failure to comply with court orders.

- Issue a show cause order if, at the time of the judicial review hearing, DCF has not met its obligations as specified in the written case plan or in the provision of independent living services. § 39.701(3)(c).
- If cause is shown for failure to comply, give DCF 30 days within which to comply and, on failure to comply with this or any subsequent order, hold DCF in contempt, if appropriate. § 39.701(3)(c).

#### Partial removal of the disability of nonage for specific purposes.

- If the youth has reached 16 years of age, has been adjudicated dependent, is residing in an out-of-home placement as defined in § 39.01, and has completed a financial literacy class, determine whether a partial removal of the disability of nonage under § 743.044, Florida Statutes (executing agreements for depository financial services), is appropriate.
- If the youth has reached 17 years of age, has been adjudicated dependent, and is in the legal custody of DCF through foster care or subsidized independent living, determine whether removal of the disability of nonage under § 743.045, Florida Statutes (executing agreements contracts for a residential lease), is appropriate.
- If the youth has reached 17 years of age, has been adjudicated dependent, and is in the legal custody of DCF through foster care or subsidized independent living, determine whether removal of the disability of nonage under § 743.046, Florida Statutes (executing agreements for utility services), is appropriate.
- If the youth has reached 16 years of age, has been adjudicated dependent, and is residing in an out-of-home placement as defined in § 39.01, and has completed a driver education program, determine whether removal of the disability of nonage under § 743.047, Florida Statutes (executing agreements for motor vehicle insurance), is appropriate.
- Enter other orders removing the disability of nonage that are in the child's best interest to remove. Rule 8.415(b)(3).

#### Retention of jurisdiction.

Note: See §§ 39.013(2) & 39.5075(6). (Retaining jurisdiction for immigration purposes. Jurisdiction would remain until the federal proceedings are final, or no later than the child's

22<sup>nd</sup> birthday. Any jurisdiction so retained is solely for the purpose of determining the status of the immigration application and proceedings.)